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Secretary for
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California Regional Water Quality Control Board San Francisco Bay Region

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Arnold Schwarzenegger
Governor

Certified Mail No: 7008 1830 0003 0496 1893
Return Receipt Requested

March 9, 2010
SMARTS NFID: 2 01IN600224

Metro Poly Corporation
Attention: Peter Kung, Agent for Service of Process
1651 Aurora Drive
San Leandro, CA 94577

**Subject: Notice of violation for storm water exposure and discharging
Without Industrial Storm Water General Permit coverage;
Corrective actions required**

Facility: 1651 Aurora Drive, San Leandro, CA 94577

Dear Mr. Kung:

State Water Resources Control Board (State Water Board) and Regional Water Quality Control Board (Regional Water Board) staff inspected your facility at 1651 Aurora Drive, San Leandro, CA 94577 (the Facility) on October 27, 2009. See attached Inspection report for our findings.

During the inspection, we explained to you that the Facility must have coverage under the State Water Resources Control Board's (State Water Board) National Pollutant Discharge Elimination System (NPDES) General Permit for Discharges of Storm Water Associated with Industrial Activities, Water Quality Order No. 97-03-DWQ, the (General Permit¹). We also explained to you that the Facility was in gross violation of stormwater requirements. This letter is formal follow-up to what was communicated in the inspection.

Summary of required corrective actions

You are required to do the following:

1. Obtain General Permit coverage (see below for details of how to do this);
2. Correct the problems noted during the inspection (see attached inspection report); and,
3. Submit photographs and a brief written description of your corrective actions to document compliance by March 30, 2010.

You remain out of compliance until you address these issues; therefore, we urge you to respond as soon as possible.

¹ General Permit: http://www.waterboards.ca.gov/water_issues/programs/stormwater/industrial.shtml

The Facility is violating California Water Code for operating without General Permit coverage

The Facility must apply for coverage under and comply with the General Permit. California Water Code section 13376 requires certain facilities to obtain coverage under the General Permit. A list of facilities required to have General Permit coverage can be found in Attachment 1 of the General Permit. For the most part, these facilities are identified in the Federal regulations by a Standard Industrial Classification (SIC) code².

Upon inspecting the Facility, Regional Water Board staff determined the Facility's SIC code as 2673: Plastics, Foil, and Coated Paper Bags³. Facilities with this SIC code fall under the General Permit's Category 10 Dischargers. Category 10 Dischargers must obtain permit coverage if they have industrial materials, equipment, or activities exposed to storm water. We determined during the inspection that the Facility has industrial materials, equipment, or activities exposed to stormwater, and therefore, the Facility is required to obtain coverage under the General Permit. Our records indicate the Facility does not yet have General Permit coverage.

The Facility is violating Basin Plan Prohibitions

Additionally, the Facility is violating the San Francisco Bay Water Quality Control Plan (Basin Plan⁴). The Basin Plan is the Regional Water Board's master water quality control planning document. The Basin Plan applies to all facilities regardless of whether they currently have permit coverage. Therefore, the Basin Plan applies to the Facility. We observed during the October 27, 2009, inspection that the Facility is in violation of Basin Plan Prohibitions 6 and 7:

- **Prohibition 6** prohibits all conservative toxics and deleterious substances to waters of the Basin above those levels which can be achieved by a program acceptable to the Regional Water Board.
- **Prohibition 7** prohibits rubbish, refuse, bark, sawdust, or other solid wastes into surface waters or at any place where they would contact or where they would be eventually transported to surface waters, including flood plain areas.

Water Board staff observed plastic pellets and other debris on the ground at your facility such that the debris could be transported into storm drains and the receiving water bodies. Therefore, the Facility is in violation of Basin Plan Prohibitions 6 and 7.

Steps for coming into compliance

By March 30, 2010, we anticipate that you will come into compliance, as described below, and provide the following deliverables. Please note that you continue to be in violation, each day, until you address the violations noted in this letter and attached inspection report. Each violation is considered separately.

² Standard Industrial Classification (SIC) code: <http://www.osha.gov/pls/imis/sicsearch.html>

³ Visit OSHA's website (see previous footnote) for a full description of SIC code 2673

⁴ Basin Plan: http://www.waterboards.ca.gov/sanfranciscobay/basin_planning.shtml

A. Obtain coverage under and comply with the General Permit

Please refer to the permit for details on how to correctly prepare the following items:

1. You are required to submit a completed NOI form for coverage under the General Permit and the appropriate fee to one of the addresses shown below:⁵

U.S. Postal Service Address

State Water Resources Control Board
Division of Water Quality
Attn: Storm Water Section
P.O. Box 1977
Sacramento, CA 95812-1977

Overnight Mailing Address

State Water Resources Control Board
Division of Water Quality
Attn: Storm Water, 15th Floor
1001 I Street
Sacramento, CA 95814

2. You must submit a copy of your NOI form to both the Regional Water Board and the local agency at the following addresses:

Regional Water Quality Control Board
Attn: Cecil Felix
1515 Clay Street, Suite 1400
Oakland, CA 94612

City of San Leandro
Attn: John Camp
835 E. 14th Street
San Leandro, CA 94577

3. You must develop and implement a Storm Water Pollution Prevention Plan (SWPPP) and storm water monitoring program consistent with the General Permit. The SWPPP must be maintained and in use on site. We also require you to submit a copy of your SWPPP to the attention of Regional Water Board and City of San Leandro staff (see above). If you need guidance, the California Stormwater Quality Association (CASQA) publishes a handbook for Industrial Stormwater Best Management Practices, which includes a chapter on SWPPP preparation⁶.

The SWPPP shall describe how the Facility will maintain compliance with the General Permit and Basin Plan Prohibitions 6 and 7. The SWPPP is considered a “living document”, in that it must be modified if changes to Best Management Practices need to be made in order to protect stormwater at the Facility. By obtaining coverage under and complying with the General Permit, the Facility shall also achieve compliance with the Basin Plan.

B. Correct specific violations noted in the inspection report

1. You must correct all violations noted in the attached inspection report.
2. You must submit photographs and written description of corrective actions to Regional Water Board staff and City of San Leandro staff at the addresses noted above in line A.2.

⁵ For more information about the program and for NOI forms, see:

http://www.waterboards.ca.gov/water_issues/programs/stormwater/industrial.shtml

⁶ CASQA BMP Handbook: <http://www.cabmphandbooks.com/Industrial.asp> Please note that the Water Board does not endorse any particular guidance document and your use of the CASQA manual does not guarantee compliance.

Consequences for Not Complying

Failure to obtain coverage under the General Permit is a violation of federal and state laws. The Prosecution Team at the Regional Water Board intends to pursue enforcement actions against facilities that are not covered by and/or are not in compliance with the General Permit.

California Water Code section 13385 authorizes the Regional Water Board to administer civil liability for up to \$10,000 per day of violation. Where there is a discharge, you may be liable for an additional \$10 per gallon for any portion that is not cleaned up that exceeds 1,000 gallons.

Please note that the City of San Leandro and the State and Regional Water Boards enforce the State's regulations and the requirements for storm water pollution prevention. Therefore, staff from any or all of these agencies may follow up regarding the Facility's compliance with storm water regulations.

If you have any questions regarding this letter, please contact Cecil Felix by email at cfelix@waterboards.ca.gov or by phone at (510) 622-2343.

Sincerely,

Christine Boschen
Section Leader
Watershed Management Division

Encl: October 27, 2009, Inspection Report and Attachments

cc: City of San Leandro
Attn: John Camp
JCamp@ci.san-leandro.ca.us (via email)

State Water Resources Control Board
Attn: Greg Gearheart, Laura Drabandt, Mark Bradley, Chris Haynes, Dylan Seidner
GGearheart@waterboards.ca.gov, LDrabandt@waterboards.ca.gov,
MBradley@waterboards.ca.gov, CHaynes@waterboards.ca.gov,
DSeidner@waterboards.ca.gov (via email)

CA Department of Fish and Game
Attn: Kyle Hiatt, Janna Rinderneck, Paul Hamilton
KHiatt@ospr.dfg.ca.gov, JRinder@ospr.dfg.ca.gov, PHamilto@ospr.dfg.ca.gov
(via email)

Inspection Report, Industrial Stormwater Program

Evaluation of compliance with NPDES General Permit CAS000001, Order No 97-03-DWQ, for Discharges of Stormwater Associated with Industrial Activities Excluding Construction Activities

Facility name and address: Metro Poly Corp., 1651 Aurora Drive, San Leandro, CA

WDID: none (Facility does not have coverage under industrial stormwater permit)

Type of inspection: Unannounced non-filer investigation

Date, time of day: October 27, 2009, 3:40 p.m.

Weather: Slight wind blowing, partly cloudy, temp around 70° F

Facility representative present: Peter Kung, President, tel. 510-357-9898

Inspectors present: Chris Haynes (State Water Resources Control Board)
Christine Boschen, Michelle Rembaum, Naomi Feger
(San Francisco Bay Regional Water Quality Control Board)

Compliance status at time of inspection:

OUT OF COMPLIANCE

Violations observed during inspection included

- Failure to obtain coverage under the industrial stormwater permit
- Gross spillage of pre-production plastics and related products in rail car loading area to south of facility.
- Release to the environment of Pre-Production Plastic materials. We observed what appeared to be plastic material coming from Metro Poly in a nearby wetland adjacent to the stormwater discharge draining the area of Metro Poly.

Inspection narrative:

On October 27, 2009, Water Board staff was inspecting businesses in San Leandro to find out whether those businesses use pre-production plastic pellets. These inspections were part of an overall statewide effort to find (and address) the sources of these pellets, which have been found in large quantities on our State's beaches and which are causing harm to marine life and the environment.

We arrived at Metro Poly Corp. in the afternoon, and we explained who we were and that we were there to conduct a stormwater inspection. The staff who greeted us at the door was unfamiliar with the industrial stormwater program, and she stated that the owner of the business was not present and therefore unable to meet with us. We asked if we could conduct our inspection, and she granted us permission to walk through the facility.

We then walked through the factory floor and quickly found our way to the rocked side yard where the railroad spur comes up along the south side of the facility and pre-production plastics are unloaded and brought into the facility. We walked around this area and observed the following (which is also documented in attached site photos):

- Wide-spread pre-production plastic pellets that had sunk down into the spaces between the rocks (see photos 1-3)
- Piles of pre-production pellets directly below current rail car valves (see photos 4-7)
- Piles of pre-production pellets that appeared to have been spilled when rail cars were unloaded in different positions (see photos 8-14)
- “Jury-rigged” 2-inch PVC piping and tape that appeared to be used to carry pellets from the rail cars into the manufacturing building (see photos 5, 6 and 16)
- Gaping openings at rail car fittings (see photos 5, and 6), which was in stark contrast to well managed sites (see attached comparison photos)
- Additive dust (for plastic bag manufacturing) spillage at the door of the facility (see photos 15 and 16)
- General poor housekeeping throughout the facility.

We did not walk the full length of the rail road spur, but from the distance we did walk, we observed pellets to extend at least to the point marked on the overhead photo. No samples were collected.

About an hour into our inspection, the President of Metro Poly, Mr. Peter Kung, returned to the facility and came out to greet us. We sat down together in the conference room to discuss our inspection findings. We explained our concerns and provided information to the President:

- Water Board’s statewide focus on pre-production plastics; legislative mandate; water quality/environmental impacts from pellets
- Need for industrial stormwater permit coverage for the facility
- Violations observed (lack of permit coverage, gross spillage of pellets in yard)
- Existence of best management practice guidance from Plastics industry (Operation Clean Sweep)

The President explained that Metro Poly had been in business at the same location for approximately 20 years and that they receive roughly 800,000 lbs of new pre-production plastic materials each month. The specific plastic in use is LDPE (low density polyethylene) resin.

To conclude, we indicated that the facility was in violation, and that we would be communicating with them in regard to corrective actions and consequences for the violations.

After leaving the facility the same team went to a wetland to the west of the site that is tributary and adjacent to the stormwater outfall that drains the area that includes Metro Poly. We observed what appeared to be LDPE pellets (see photos 17 and 18) from Metro Poly in the wetland and collected a sample of the pellets.

Attachments:

1. Aerial View of the Facility
2. Site photographs

3. Comparison photographs of correct unloading procedures
4. Operation Clean Sweep brochure
5. Website printout for Industrial General Stormwater Permit

Attachment 1

Aerial View of the Facility



Attachment 2

Site Photographs



Photo 1



Photo 2



Photo 3



Photo 4



Photo 5



Photo 6



Photo 7



Photo 8



Photo 9



Photo 10



Photo 11



Photo 12



Photo 13



Photo 14



Photo 15



Photo 16



Photo 17



Photo 18

Attachment 3

Comparison photographs of correct
unloading procedures







OPEN HATCH BEFORE UNLOADING COMPART









Attachment 4

Operation Clean Sweep brochure

Operation Clean Sweep® Tools and Resources

OCS Materials are available in both English and Spanish



Pellet Handling Manual

2' x 3' Posters

6" x 18"

Railcar Stickers

"One of the greatest benefits of implementing OCS was that most of what we did was easy and inexpensive to implement. Now our shop is cleaner, safer and more efficient."

- Kevin Clyde, Materials/Secondary Operations Manager
Jatco, Incorporated

For more information and to order free materials go to www.opcleansweep.org

Take the Operation Clean Sweep® Pledge

► P L E D G E

Our company recognizes the importance of preventing the loss of resin pellets into the environment and we are committed to implementing the Operation Clean Sweep® program.

We will be an OCS Program Partner, strive towards zero pellet loss and:

- Make changes wherever possible and practical to:
 - Improve our worksite set-up to prevent and address spills;
 - Create and publish internal procedures to achieve zero pellet loss goals;
 - Provide employee training and accountability for spill prevention, containment, cleanup and disposal;
- Review our performance regularly; and
- Comply with all applicable federal, state and local regulations governing pellet containment.



Register your company OCS Pledge online at www.opcleansweep.org



Practical steps for containing plastic pellets at your facility

Sponsored by the
Plastics Division of the American Chemistry Council
and The Society of the Plastics Industry, Inc.





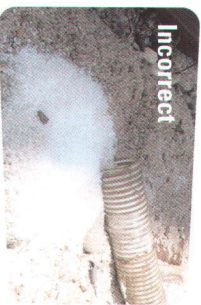
Pellet containment: Good for the environment. Good for business.

The proper containment of plastic pellets is a critical issue for the environment - and a priority for the plastics industry.

Whether a spill happens in Iowa or at a seaside facility, lost pellets can get into local waterways, wind up in our oceans and pose a hazard to marine wildlife. The impact of plastic pellets in our waterways is a serious issue that must be addressed.

Fortunately, there are a number of practical low cost steps facilities can take to contain plastic pellets. The U.S. plastics industry's Operation Clean Sweep® (OCS) program can help your facility get started.

How is your facility handling pellets today?



Incorrect



Correct

When facilities implement OCS:

- Pellets are kept out of the natural environment
- Companies enhance their reputation with customers and the community
- Accidents can be reduced
- More material becomes product rather than waste, improving efficiency
- Savings can be realized in high cost items such as insurance
- Penalties and fines can be avoided

Your participation is critical.

"We have found that Operation Clean Sweep®, while comprehensive, is an easy program to implement."

- Peter M. Grande, President, Command Packaging

All parts of the plastic distribution chain - resin producers, transporters, transloaders, packagers and plastics processors - have an important role to play in preventing pellet loss.

The OCS program provides a flexible, voluntary approach and offers specific tools, techniques and management practices for all types of pellet handling operations. The OCS manual makes it easy to follow a program for your facility's operations.

Here's how OCS works.

Individual facilities commit to uphold basic pellet containment principles by signing on as OCS Pledge Partners. By taking the OCS Pledge, facilities agree to:

- Avoid spills
- Contain any spills that do occur
- Properly dispose of collected materials

An OCS manual of best management practices is available online at www.opcleansweep.org.

It costs nothing to Pledge and all materials are free.

A framed OCS Pledge Partner certificate is sent to all participating companies.

Knowledgeable staff can answer questions about the program. For more information, please call 800-2-HELP-90 (800-243-5790).

Implementing Operation Clean Sweep® in 5 Basic Steps

- 1. Become an OCS Pledge Partner and commit to making zero pellet loss a priority.**
On behalf of your facility, complete the "Company Pledge" form available online at www.opcleansweep.org.
- 2. Assess your facility's situation and needs.**
Use the OCS Manual's sample worksheets and checklists to conduct a site audit.
- 3. Make needed upgrades in facilities and equipment as appropriate.**
In some cases, small changes (such as putting catch bins in unloading areas) make it easier for employees to maintain a clean environment.
- 4. Raise employee awareness and create accountability.**
Use the OCS Manual to establish written procedures and train your employees.
- 5. Follow up and enforce procedures - when management cares, employees will too.**
Give employees feedback on areas for improvement and compliment jobs well done.

"Employees basically want to do the right thing and making it easy for them to accomplish the goals ensures the success of the program."

- Doug Nuttall, Director of Special Projects, Crown Poly, Inc.



Attachment 5

Website printout for Industrial
General Stormwater Permit

[Home](#) » [Water Issues](#) » [Programs](#) » [Stormwater](#)

Storm Water Program

INDUSTRIAL STORM WATER

The Industrial Storm Water General Permit Order 97-03-DWQ ([General Industrial Permit](#)) is an NPDES permit that regulates discharges associated with 10 broad categories of industrial activities. The General Industrial Permit requires the implementation of management measures that will achieve the performance standard of best available technology economically achievable (BAT) and best conventional pollutant control technology (BCT). The General Industrial Permit also requires the development of a Storm Water Pollution Prevention Plan (SWPPP) and a monitoring plan. Through the SWPPP, sources of pollutants are to be identified and the means to manage the sources to reduce storm water pollution are described. The General Industrial Permit requires that an annual report be submitted each July 1. Facility operators may be able to participate in [group monitoring program](#).

To apply for coverage under the General Permit, see [Industrial General Permit and Forms](#) and download the [Current Industrial Activities Storm Water General Permit](#). The Notice of Intent is an attachment within the General Permit.

- » [Electronic Registering and Filing of Storm Water Annual Reports](#) (updated 6/12/06)
- » [Public Hearing Comments](#) on 2005 Draft Industrial Activities Storm Water Permit (3/17/05)
- » [Industrial General Permit and Forms](#)
- » [Annual Report Storm Water Data](#) - The Water Board staff has collected and merged all available Regional Board electronic annual report data into one Access table. Please note that much of this data has been entered with little or no QA/QC, and that the data does not represent all Regional Boards or compliance years. (updated 2/16/05)
- » [Annual Report](#)
 - » Login to [SMARTS \(SWARM\)](#) to submit the annual report electronically
- » [Frequently Asked Questions](#)
- » [Industrial Permit Databases](#)
- » **New!** [Preproduction Plastic Debris Program Page](#)
- » [Industrial Historical Documents](#)

(Updated 1/12/10)G

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